FOIP FOLIO

PRIVACY PEOPLE

Welcome Aaron

The newest member of our Saskatchewan Information and Privacy Commissioner Office is **Aaron Orban**. He joins us in a term position as a Portfolio Officer. Aaron is a long serving employee of the Government of Saskatchewan, and brings over 15 years of experience working within the criminal justice system in various ministries of the Government. He has taken a leave from his position as Team Leader at the Secure Youth Detox Centre in Regina in order to join us. Aaron holds a Bachelor of Arts degree in Sociology and a Bachelor of Social Work degree, both from the University of Regina.

Welcome Back Larissa

Larissa McWhinney rejoins us after taking maternity leave. Larissa is originally from Toronto, but moved to Regina in 2001 to work on the "Romanow Commission". Larissa has a strong background in medical ethics and did Ph.D. research on patient autonomy, confidentiality and informed consent. Congratulations to Larissa and her husband Randy on their daughter Sophia Madeleine!

Congratulations

We congratulate **Jacqueline Messer-Lepage** at Saskatchewan Health on her permanent appointment as Director, Health Information Policy and Analysis/Chief Privacy and Access Officer.

Congratulations also to **Kevin Smith** as the new FOIP Coordinator at the University of Saskatchewan. He can be contacted at 966-8596 or email: Kevin.smith@usask.ca.

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REPORT F-2008-002 (SASKATCHEWAN JUSTICE)

Our office has just issued a Report under *The Freedom of Information and Protection of Privacy Act* (FOIP). A request for copies of the minutes of meetings from the Funeral and Cremation Services Council (Council), was submitted to the Superintendent of Funeral and Cremation Services (Superintendent) at the Consumer Protection Branch, an agency of the Department of Justice (Justice) (now known as the Ministry of Justice and Attorney General). Justice responded that it did not have such a record in its possession. The issue under review was whether the responsive record, even if not in Justice's possession, was nonetheless in its control. The focus of the analysis is on section 5 of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Commissioner found that, of the factors recognized in other jurisdictions, none existed in this case to render the Council's records under the "control" of Justice. The Commissioner further found that *The Funeral and Cremation Services Act* (FCSA) creates a system whereby the Council operates independently from Justice in its management of those businesses licensed under the FCSA, and that the Superintendent acts largely in the capacity as an oversight body, including the consideration of appeals from Council decisions and other matters that pertain to the administration of the FCSA. As such, it would not be reasonable for the records of the Council to be considered to be under the control of Justice. To view this Report go to www.oipc.sk.ca under the *Reports* tab.

REFLECTIONS ON RIGHT TO KNOW WEEK 2008

The Government of Saskatchewan and cities of Regina and Saskatoon all proclaimed the week of September 28-October 3, 2008 as 'Right to Know Week'. CBC Radio, CJME and CKRM all devoted some time to the Right to Know theme early in the week. On Tuesday, September 30th author and professor **Alasdair Roberts** spoke at the Johnson-Shoyama Graduate School to a packed room on the topic: *Blacked Out: Government Secrecy in the Information Age*. We could not accommodate all who wanted to attend. Professor Roberts canvassed significant international developments with access to information. He discussed some interesting foreign features such as the Mexican on-line system for dealing with access requests. A reception followed. On Thursday, October 2nd in Saskatoon at the College of Law, there was a presentation by **Suzanne Legault**, Assistant Information Commissioner of Canada on the topic: *Modernizing Access to Information in Canada: From Town Crier to Global Village*. A reception followed.

We want to acknowledge the generous support of sponsors of the week's events: Law Foundation of Saskatchewan, the Canadian Bar Association-Saskatchewan Branch, the Sheldon Chumir Foundation for Ethics in Leadership, McKercher LLP, Regina Public Library, Johnson-Shoyama Graduate School of Public Policy, MacPerson Leslie Tyerman LLP, the Star Phoenix, the Leader-Post, Office of the Information and Privacy Commissioner.

Thanks to the members of the RTK Committee, Neil Robertson Q.C., Jeff Barber, Mark Anderson, Professor Patricia Elliot, Professor Joyce Green, Professor Darlene Juschka, Andrea Geisbauer, Elke Churchman, Kara Philip and Pam Scott, for all of their work and commitment to transparent government.

SASKATOON HEALTH REGION RECEIVES CULLITON AWARD

On September 30, 2008 the Chief Justice E.M. Culliton Right to Know Award was presented to **Darlene Eberle**, Chairperson of the Saskatoon Health Region. The presentation was made by **Murray Sawatzky**, President of the Canadian Bar Association-Saskatchewan Branch.

The Saskatoon Health Region (SHR) has made remarkable progress in supporting and promoting an atmosphere of open governance and decision-making. Key to this progress was the creation in January 2006 of a dedicated privacy and access office. This enabled all access and privacy responsibilities under both *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) and *The Health Information Protection Act* (HIPA) to be consolidated in an office led by a full time Privacy Officer supported by three other staff positions. A very large education initiative for the 12,000 registered nurses and other SHR staff was undertaken that has required approximately 40% of the time of the privacy and access office. This has emphasized the importance of the SHR meeting its obligations to comply with the letter and the spirit of LA FOIP and HIPA. SHR has invested in a database that tracks all formal requests so timelines can be closely monitored. SHR has made information for the public on access to information readily available through the external website of SHR. SHR has also been successful in providing a good deal of information to applicants through routine disclosure and active dissemination. In April 2008, the SHR received an award from the Saskatchewan Association of Health Organizations for excellence in communication with internal and external stakeholders. In addition, the SHR has promptly adopted recommendations from the Information and Privacy Commissioner's office in the form of several reports from reviews and investigations to bolster compliance with LA FOIP and HIPA.

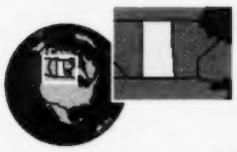
RTK ESSAY AWARDS

The RTK Committee announced the recipients of the RTK awards for the essay contest. The $500 award sponsored by McKercher LLP for a post-secondary student went to **J. Vermeulen** (University of Regina). The $300 award sponsored by MacPherson Leslie Tyerman LLP for a high school student went to **Anna Bigland-Pritchard** of Borden, Saskatchewan. Congratulations to both students.

WORKPLACE SURVEILLANCE

There is an excellent article on workplace surveillance from **Linda McKay-Panos** and **Mira Kunes** that first appeared in LawNow, Vol. 32, No. 2. It has been reprinted in the newsletter of the Alberta Civil Liberties Research Centre, Centrepiece, Vol. 14 No. 1 (2008) (Website: www.aclrc.com). It provides a brief yet comprehensive overview of the approach taken by labour arbitration boards, federal and provincial information and privacy commissioners, and Canadian courts.

PRIVACY MADE EASY IN SASKATCHEWAN



On October 27, 2008 in Regina at 12 noon at the Hotel Saskatchewan, the Canadian Bar Association Privacy and Access Law Section will hear from **Alec Campbell**. He will be addressing the North Section in Saskatoon at 12 noon on October 28, 2008 at the Saskatoon Club. Alec will be discussing a new federal initiative exclusive to Saskatchewan. **Privacy Made Easy** is a program to simplify PIPEDA compliance for small and medium sized businesses. If it is successful, look to see this program rolled out, perhaps in modified form, in other Canadian jurisdictions that do not have a substantially similar private sector privacy law (i.e. every province other than British Columbia, Alberta and Quebec). He wants input from Saskatchewan lawyers to ensure this program will meet the needs of their clients.

These meetings are available not only to CBA members but also to Privacy Officers, and FOIP Coordinators from other organizations provided you register in advance with the CBA office at (306) 244-3898 or by fax at (306) 652-3977 or by email at lorrainec@cba.org.

Alec Campbell is president of Excela Associates Inc., a privacy consulting firm located in Edmonton with clients across Canada. Excela has provided consulting services to the governments of Alberta, Ontario, Newfoundland, the Yukon and Canada, as well as Bell Canada, IBM Global Services and others in the private sector.

Alec has been involved in the administration of freedom of information and privacy legislation since 1993. He was the first freedom of information and protection of privacy coordinator at the Alberta labour department. He held directorships with freedom of information and protection of privacy responsibilities in both the Government of Alberta and Alberta's Office of the Information and Privacy Commissioner. In the Commissioner's office, he developed and implemented that office's privacy impact assessment process.

From 2001 to 2006, Alec was responsible for information technology privacy in the office the Chief Information Officer in the Government of Alberta. He led the development of policy, procedures, and privacy impact assessments, as well as the award-winning GoA Privacy Architecture.

Alec is contracted to Bell Canada to assist in the development of a Saskatchewan privacy awareness program for businesses for the Office of the Privacy Commissioner of Canada, in cooperation with the Saskatchewan Commissioner.

DO YOU WORK IN A LOCAL AUTHORITY?

Duane Mombourquette, Director of the Access and Privacy Branch (Saskatchewan Justice), has announced that his office will undertake two training sessions on *The Local Authority Freedom of Information and Protection of Privacy Act* in November. Particulars are as follows:

***November 17, 2008** - West Harvest Inn (Regina)*

***November 25, 2008** - Hilton Garden Inn (Saskatoon)*

Sessions run from 10:00 am until 3:30 pm. Lunch will be provided.

To register prior to November 10, 2008 go to www.justice.gov.sk.ca/LAFI-sessions.

PRIVACY COMMISSIONER OF CANADA - ADMINISTRATIVE AGENCIES AND PRIVACY

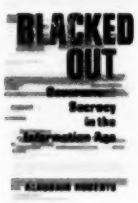
In July 2008 the Privacy Commissioner of Canada dealt with a complaint about the practice of Service Canada of publishing Office of the Umpire (CUB) decisions on the Internet. These decisions with respect to employment insurance appeals contain personal information about individuals. The Assistant Commissioner, **Raymond D'Aoust** held that the 'open court' principle does not require or justify the electronic publication of the personal information in CUB decisions on the Internet. His recommendations included the following:

- That Service Canada should reasonably depersonalize future decisions through the use of randomly assigned initials in place of names OR post on the Internet only a summary of the decision with no identifying personal information.
- Restrict the indexing by name of past CUB decisions by global search engines through the use of an appropriate "web robot exclusion protocol" OR remove or reasonably depersonalize all past CUB decisions on the Service Canada website.

More information about this important decision is available at www.cippic.ca. This decision is consistent with our Investigation Report 2005-001 (Automobile Injury Appeal Commission) available on our website at www.oipc.sk.ca.

FOR YOUR ACCESS AND PRIVACY LIBRARY

There are several new titles that may be of interest to FOIP FOLIO subscribers.



Alasdair Roberts' title *Blacked Out: Government Secrecy in the Information Age* is available at the University of Regina Bookstore for $23.95. The Bookstore can be accessed at (306)585-4755 or at www.uregina.ca/bookstore.

Colin J. Bennett and **David Lyon** are the editors of a collection of interesting essays in *Playing the Identity Card* (Routledge Taylor & Francis Group, 2008). The same prolific Colin Bennett is the author of *The Privacy Advocates – Resisting the Spread of Surveillance* (The MIT Press, 2008). This is a review of the various groups and actors who comprise much of the international 'civil society'. This is a useful analysis of the creative ways these organizations have been able to influence public policy in their respective nations and at the level of international organizations.

Daniel J. Solove's *Understanding Privacy* (Harvard University Press, 2008) attempts to set out a "framework for understanding privacy that provides clear, practical guidance for engaging with relevant issues".

FUTURE EVENTS

October 22, 2008 -- Prairie Health Information Privacy Day 2008 – Winnipeg, Manitoba (visit http://verney.ca/phipd2008/ for more details)

October 27, 2008 -- CBA Privacy and Access South Section Meeting, featuring Alec Campbell - Regina, Saskatchewan, Hotel Saskatchewan at 12:00 pm (to register call the CBA at 306-244-3898)

October 28, 2008 -- CBA Privacy and Access North Section Meeting, featuring Alec Campbell - Saskatoon, Saskatchewan, Saskatoon Club at 12:00 pm (to register call the CBA at 306-244-3898)

November 3, 2008 -- 2008 Electronic Health Information and Privacy Conference – Ottawa, Ontario (visit http://www.ehip.ca/ for more details)

November 17, 2008 -- Local Authority Training Session – Regina, Saskatchewan at the West Harvest Inn (visit www.justice.gov.sk.ca/LAFI-sessions for more details)

November 13-14, 2008 -- Internet Law: Latest Developments and Strategies – Vancouver, BC (visit http://www.cwilson.com/seminars/internetlaw_nov08.pdf for more details)

November 18-19, 2008 -- COACH: Fall Forum – Toronto, ON (visit https://secure.coachorg.com/default.asp?ID=809 for more details)

November 24-25, 2008 -- Privacy and Identity Theft Conference – Vancouver, BC (visit www.idconference2008.com for more details)

November 25, 2008 -- Local Authority Training Session – Saskatoon, Saskatchewan at the Hilton Garden Inn (visit www.justice.gov.sk.ca/LAFI-sessions for more details)

January 19-20, 2009 -- Privacy Compliance – Calgary, AB
(visit https://www.canadianinstitute.com/Home.htm for more details)

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